

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ROCEP LUSOL HOLDINGS LIMITED,)	
)	
Plaintiff/Counterclaim Defendant,)	
)	
v.)	Civil Action No. 05-141-KAJ
)	
PERMATEX, INC., and ULTRAMOTIVE)	
CORPORATION,)	
)	
Defendants/Counterclaimants.)	

SUBMISSION OF JOINT CLAIM CONSTRUCTION CHART

Pursuant to the Scheduling Order entered in this case, Counsel for Plaintiff submits, on behalf of the parties, the attached Joint Claim Construction Chart, which has been agreed to by the parties .

Respectfully submitted,
ROCEP LUSOL HOLDINGS LIMITED

Dated: May 26, 2006

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JOINT CLAIM CONSTRUCTION CHART

Pursuant to the Scheduling Order entered in this case, the parties have met and prepared the following Joint Claim Construction Chart identifying for the Court the terms/phrases of the claims in issue. These charts include each party's proposed construction.

Plaintiff's Proposed Construction

'064 Patent Claim Term or Element	Plaintiff's Proposed Construction
tilt valve	"Tilt valve" is a valve that, when not otherwise constrained, opens when a portion of the valve (the valve stem) is tilted and can also open when the valve stem is displaced axially relative to a seal. Col. 1, lines 45-52; Col. 3, lines 14-43; Col. 5, lines 17-21; items 30, 116 (Fig. 7a).
hinge assembly	"Hinge assembly" is a hinge that is attached to the container and to which another component is pivotally attached. Col. 3, lines 44-48; item 16 (Fig. 7d).
a nozzle assembly sealingly engageable with the hinge assembly	<p>"Nozzle" is a tapered conduit through which the product flows that is being dispensed. See figures. "Nozzle assembly" includes the nozzle and components connected to the nozzle, such as an actuator. Col. 3, lines 57-61 and Col. 4, lines 12-17.</p> <p>"Sealingly engageable" refers to the nozzle assembly being configured such that closing of the valve causes the nozzle to engage with the hinge assembly through the lever to seal the valve. The specification describes how the nozzle, during operation, engages with the hinge assembly so as to seal against flow through the nozzle. More specifically, the nozzle and valve operate such that, when the valve is open the nozzle is in contact with the hinge assembly through the bearing portion of the lever. The pressure within the container pushes the valve and nozzle upwards, against the lever which is pivotally attached to the hinge assembly, thereby causing the valve to seal. Col. 5, line 58 – Col. 6, line 11. Furthermore, pivoting of the lever on the hinge assembly forces the nozzle assembly downward, unsealing the valve.</p>
the nozzle assembly being rotatable relative to the hinge assembly and the lever between open and closed positions of said nozzle assembly	The nozzle assembly rotates relative to the hinge assembly. The nozzle assembly can rotate between open and closed positions. The nozzle can be rotated to any desired position. The degree of rotation determining the amount the valve will open. Col. 6, lines 23-28.
the nozzle assembly... including an actuator portion provided with a surface which cooperates with the lever bearing portion such that in the open position of said nozzle assembly operation of the lever causes movement of the actuator portion to open the valve and permit flow of the product out of the apparatus.	The nozzle assembly includes an actuator which is the base of the nozzle assembly. The base (actuator) includes an upper surface. When the lever is depressed, the bearing portion pushes downward on the upper surface, forcing the nozzle assembly to push the valve stem downward, thereby opening the valve. See, figures 4-7, and Col. 5, lines 1-7, lines 23-29; Co.. 6, lines 1-8.

Defendant's Proposed Construction

'064 Patent Claim term or element	Defendants' Proposed Construction
tilt valve	"tilt valve" refers to a conventional off-the-shelf valve as generally known and widely used in dispensing apparatuses in which the valve is designed to be opened by tilting a hollow stem which is resiliently held on a container mounting cup by a rubber grommet. See '064 patent, Col. 1, lines 45-48; Col. 3, lines 14-16; Col. 5, lines 36-38.
hinge assembly	the hinge "assembly" is a hinge with a mechanism for attaching the hinge to a container. The lever is pivotally attached to the hinge assembly. The hinge assembly is separate from and does not include the lever. Col 1, lines 30-31; Col. 3, lines 12-14 and 43-56; Col. 5, lines 29-33
a nozzle assembly sealingly engagable with the hinge assembly	<p>"Nozzle assembly" is a tapered tube mounted on the valve stem. When the valve is opened, the product is dispensed through the valve stem and the tapered tube. The nozzle assembly includes the nozzle and other components, such as (a) an end cap to cover the dispensing tip, (b) fins or flanges to facilitate finger rotation of the nozzle; and (c) dog teeth which can enter slots on the hinge assembly. Col. 2, lines 9-19; Col. 3, lines 57-61; Col. 5, lines 5-8.</p> <p>Claim 1 further limits the nozzle assembly such that it must include (a) internal threads engaged with the external thread of the valve stem, and (b) an actuator portion against which the lever bears to open the valve.</p> <p>"nozzle assembly sealingly engagable with the hinge assembly" refers to direct physical contact between the nozzle assembly and the hinge assembly, such contact causing a seal to be formed which prevents fluid from flowing between the nozzle assembly and the hinge assembly.</p>
nozzle assembly being rotatable relative to the hinge assembly and the lever between open and closed positions of said nozzle assembly	"rotatable... between open and closed positions" describes two discrete nozzle assembly positions, open and closed. The closed position of the nozzle assembly is one in which movement of the lever does not result in product being dispensed; that is, the closed nozzle position disables the valve. The open position of the nozzle is one in which product can be dispensed at a predetermined rate. Col. 2, lines 4-6; Col. 3, line 62 - Col 4, line 2; Col. 4, lines 41-46.
actuator portion provided with a surface which cooperates with the lever bearing portion	the actuator portion is a ring member with a cam surface arranged at the lower end of the nozzle assembly. Col. 1, lines 34-36 and lines 58-64; Col. 4, lines 13-17 and lines 40-43; Col. 6, lines 12-31

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CERTIFICATE OF SERVICE

I, David P. Primack, hereby certify that on this date, I electronically filed with the Clerk of the Court using CM/ECF of a Joint Claim Construction Chart and caused it to be served upon the following in the manner indicated:

<u>Via Mail</u> John Harris, Esq. Reed Smith LLP 1201 Market Street, Suite 1500 Wilmington, Delaware 19801	<u>Via Overnight Mail</u> Stephen Chin, Esq. Reed Smith LLP 599 Lexington Avenue, 29 th Floor New York, NY 10022-7650
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Dated: May 26, 2006

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